

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

DAVID S. YARNALL, )  
                          )  
Plaintiff,            )  
                          )  
v.                     )       C.A. No.: 05-527-SLR  
                          )  
CPL. ANTHONY MENDEZ, DELAWARE )  
STATE POLICE - TROOP 7, and    )  
MILLSBORO POLICE DEPARTMENT,    )  
                          )  
Defendants.            )  
                          )

**DEFENDANT MILLSBORO POLICE DEPARTMENT'S MOTION FOR LEAVE  
TO FILE A MEMORANDUM OF POINTS AND AUTHORITIES IN  
LIEU OF AN OPENING BRIEF**

Defendant Millsboro Police Department requests permission to file a Memorandum of Points and Authorities in support of its Motion to Dismiss pursuant to Dist. Ct. L.R. 7.1.2. (b) in lieu of an opening brief. In support of its Motion, defendant Millsboro Police Department states as follows:

1. Dist. Ct. L.R. 7.1.2. (b) provides that " the Court may order or the parties may agree to serve and file...statements of points and authorities in memorandum form in place of briefs."
2. Plaintiff is pro se. The arguments set forth in the Millsboro Police Department's Motion to Dismiss do not require complex factual or legal analysis.

**WHEREFORE**, defendant Millsboro Police Department respectfully requests permission to file a Memorandum of Points and Authorities in lieu of an opening brief.

**AKIN & HERRON, P.A.**

/s/ Bruce C. Herron  
Bruce C. Herron  
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Attorney for Defendant  
Millsboro Police Department

**SO ORDERED** this \_\_\_\_ Day of \_\_\_\_\_, 2005.

Dated: December 7, 2005

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